

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 16, 2010

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Snow called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson and Commissioner Guthrie. Superintendent Huskey and Executive Secretary Dunsmore were also in attendance.

Marc Carmichael, Debbie Rolfson, Matt Brase, Connie Vickery, Jeff McKean, Greg Genrich, Lisa McKinney and Bart Herriman were present as observers.

#### DISPOSITION OF MINUTES

Commissioner Guthrie moved to approve the minutes that were submitted for the November 3, 2010 meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the November 16, 2010 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

DL45-26666, DL45-26667, DL45-26668 WALGREEN CO – Hearing Judge Dunsmore stated these applications were recommended to be denied by the Lake County Local Board. The Commission upheld the recommendation. The applicant filed timely notices of appeal and the matters were set for hearing. The Hearing Judge now submits his proposed findings of fact and conclusions of law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation and approve the new applications. Commissioner Guthrie seconded. The motion was unanimously approved.

#### CONSIDERATION OF APPLICATIONS

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Commissioner Guthrie seconded. The motion was unanimously approved.

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Commissioner Guthrie seconded. The motion was unanimously approved.

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permit applications for catering. Commissioner Guthrie seconded. The motion was unanimously approved.

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Commissioner Guthrie seconded. The motion was unanimously approved.

Two hundred sixty-two (262) permits approved for renewal, sixty-three (63) new and/or transfer permits approved, six (6) permits approved for catering, two (2) permits approved for first year escrow, two (2) permits approved for third year escrow, one (1) permit approved for fourth year escrow and two (2) permits approved for fifth year escrow.

### **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Guthrie seconded. The motion was unanimously approved.

### **APPLICATIONS FOR DISCUSSION**

RC17-03998 GARRETT COUNTRY CLUB - Commissioner Guthrie stated the permittee requests the Commission convert this type 211-3 permit to a type 209 permit.

Commissioner Guthrie moved to approve this request. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR49-04563 DA-VITT ENTERPRISES, INC., D/B/A THE VAULT – Commissioner Guthrie noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie stated the local board cited lack of character, fitness and reputation as reasons for recommending denial. The local board also made reference to violations for selling on Christmas and shootings that occurred on the premises.

Commissioner Guthrie moved to uphold the local board and deny the renewal. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL37-27308 FAMILY EXPRESS CORPORATION – Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-27231 SPEEDWAY SUPERAMERICA, LLC – Commissioner Guthrie noted this is a new type 116 application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie stated the local board cited no desire in the neighborhood for the services and the adverse affect on neighborhood as reasons for the recommendation.

Commissioner Guthrie moved to uphold the local board and deny the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-27236 SPEEDWAY SUPERAMERICA, LLC – Commissioner Guthrie noted this is a new type 116 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated the two local board members who voted to disapprove feel the applicant does not meet the definition of a grocery.

Commissioner Guthrie moved to overturn the local board and approve the new permit because he feels this is a misapplication of the grocery store definition. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-27235 SPEEDWAY SUPERAMERICA, LLC – Commissioner Guthrie noted this is a new type 116 application with the local board voting two (2) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-27229 SPEEDWAY SUPERAMERICA, LLC – Commissioner Guthrie noted this is a new type 116 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-27228 SPEEDWAY SUPERAMERICA, LLC – Commissioner Guthrie noted this is a new type 116 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-27230 SPEEDWAY SUPERAMERICA, LLC – Commissioner Guthrie noted this is a new type 116 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

CH33-27372 STARS ENTERTAINMENT, LLC – Commissioner Guthrie noted this is a new type 230-1 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL75-27309 FAMILY EXPRESS CORPORATION – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL50-27313 FAMILY EXPRESS CORPORATION – Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie stated the local board cited lack of need and desire in the community for the services as reason for recommending denial.

Commissioner Guthrie moved to uphold the local board and deny the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL48-27296 RICKER OIL COMPANY, INC. – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL48-27297 RICKER OIL COMPANY, INC. - Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

## **INACTIVE FILES**

INACTIVE FILES- Vice Chairman Johnson moved to make eighty (80) permits inactive. Sixty (60) permits are not subject to auction and twenty (20) permits are subject to auction. Commissioner Guthrie seconded. The motion was unanimously approved.

## **OLD BUSINESS**

No Old Business

## **NEW BUSINESS**

### RULE READOPTION –

Comm. Guthrie            Mr. Chairman, I move that we readopt five rules. The first is 905 IAC 1-11.1 Temporary Beer/wine Permit Fees, 905 IAC 1-35.1 Auto Race Tracks, 905 IAC 1-44-1 Revocation of Denied Permit,

905 IAC 1-46 Tobacco Retail Sales Certificates, and 905 IAC 1-47  
Municipal Riverfront Development Projects.

Vice Chair Johnson Second.

Chairman Snow Discussion? Those in favor signify by saying, aye.

Guthrie Aye.

Johnson Aye.

Snow Aye. Motion passed on a unanimous basis.

### **POLICY DETERMINATIONS**

No Policy Determinations

### **ANNOUNCEMENTS**

RESIGNATION OF CHAIRMAN – Chairman Snow stated, with much regret, that he submitted his resignation to the Governor. His last day with the agency will be November 19. The Chair said he will miss the members of the industry very much, but will especially miss the employees of the Commission that he has worked with and whom he said deserves praise much more than any commissioner can imagine.

### **ADJOURNMENT**

Commissioner Sturtz moved to adjourn the meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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ALEX HUSKEY, ACTING CHAIRMAN

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DAVID JOHNSON, VICE CHAIR

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DALE STURTZ, COMMISSIONER

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FRANK GUTHRIE, COMMISSIONER